THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No.5487 OF 2006

ORDER: (Per MVR,J)

This writ petition is directed against an order, dated 27.02.2006, of the Andhra Pradesh Administrative Tribunal (for short "the APAT"), made in O.A.No.6569 of 2005, disposing of the said O.A. with a direction to consider the case of the petitioner in accordance with G.O.Ms.No.44, dated 17.02.2003, in regard to his appointment on contract basis to the post of Kamati.

The petitioner was appointed as Kamati on compassionate grounds on 09.04.2002 consequent upon retirement of his father as Male Nursing Orderly in Osmania General Hospital, on medical invalidation, on 18.06.2001. The first respondent issued proceedings dated 29.06.2004 terminating his services along with another. He filed O.A.No.3772 of 2004 against the said orders before the APAT. Under the orders of the interim direction, the petitioner has been continuing. The petitioner earlier filed case in O.A.No.3975 of 2003 before the APAT and obtained orders to continue him in service. Both the O.As i.e., O.A.No.3772 of 2004 and O.A.No.3975 of 2003 are said to be pending for disposal. While so, the first respondent issued the proceedings dated 27.09.2005 in R.C.No.E8/OGH/2005/1714, which runs as follows:

> "Sri Fareed Khan, Kamati who is reinstated to duty, vide reference 5th cited is hereby TERMINATED from service in terms of reference 6th and 7th cited above.
>
> Further as per the references 6th and 7th

> cited he is informed that if he is willing for absorption for appointment to any of the posts in A.P.Last Grade Service on contract basis and on consolidated pay of Rs.2,600/- (Rupees Two Thousand And Six Hundred Only) P.M. for a period of one year and continued subject to renewal every year, he should submit his consent immediately."

O.A.No.6569 of 2005 in which the impugned order is passed arose out of the above proceedings of termination.

The learned counsel for the petitioner contends that termination of services of the petitioner as Kamati, is illegal.

A Full Bench of this Court in ***GOVERNMENT OF ANDHRA PRADESH AND OTHERS v. D.GOPAIAH***[1] held that compassionate appointments on the ground of medical invalidation does not satisfy the requirements of the
Article 16 of the Constitution of India and any scheme formulated by State providing for such compassionate appointment is unconstitutional.

The services of the petitioner were terminated in pursuance of the judgment rendered by the Full Bench of this Court. The contention advanced by the learned counsel is that G.O.Ms.No.305, dated 17.07.2002 is applicable only to applications pending for appointment on medical invalidation grounds as on the date of G.O. but not to those already working. The question whether that G.O. is applicable or not does not arise here. The Full Bench decision renders any appointment made on compassionate grounds due to retirement of father or mother on medical invalidation, invalid. The APAT rightly held that the petitioner is not entitled to continue in service as per the Full Bench decision and directed the Government to consider his case

for appointment on contract basis. We see no infirmity in the order passed by the Tribunal and the same has got to be confirmed.

Accordingly, this writ petition is dismissed with costs.

_____

J.CHELAMESWAR, J.

Date: 6.04.2006

_____

M.VENKATESWARA REDDY, J.

GS

---

[1] 2001 (6) ALD 759 (FB)